

ASSEMBLY BILL

No. 160

Introduced by Assembly Member Lieber

January 18, 2007

An act to add Article 2 (commencing with Section 1171) to Chapter 4.5 of Title 7 of Part 2 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 160, as introduced, Lieber. California Sentencing Commission. Existing law prescribes various penalties for criminal offenses.

This bill would establish the California Sentencing Commission, with specified membership and terms, to devise sentencing guidelines. The bill would also create a Judicial Advisory Committee composed of judges, as specified, to assist the commission.

This bill would also require the commission to submit to the Legislature, on or before January 1, 2009, a report containing sentencing guidelines, as specified. The sentencing guidelines contained in the report would become effective on May 1, 2009, unless the Legislature provides otherwise.

This bill would also require the commission, beginning on January 1, 2011, to issue a subsequent report every 2 years to the Legislature containing revisions or modifications of the sentencing guidelines, if any. The revisions or modifications to the sentencing guidelines contained in these reports would become effective on May 1 of the year the report is issued unless the Legislature provides otherwise.

This bill would also provide that it shall not affect sentences established by an initiative adopted by the voters at a statewide election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 1171) is added to Chapter 4.5 of Title 7 of Part 2 of the Penal Code, to read:

Article 2. California Sentencing Commission

1171. There is in state government the California Sentencing Commission. The commission shall consist of 16 members.

(a) The following four members are ex officio members:

(1) The Attorney General.

(2) The Director of the Department of Corrections and Rehabilitation.

(3) The Director of the Department of Finance.

(4) The State Public Defender.

(b) The Governor shall appoint five members as follows:

(1) One prosecuting attorney.

(2) One chief of police or sheriff.

(3) One public member who is not and has not ever been an attorney, judge, or law enforcement officer.

(4) One person who is serving as an adult parole or probation officer, or who has served in that capacity.

(5) One public member.

(c) The Speaker of the Assembly shall appoint three members as follows:

(1) One public member who is not and has not ever been an attorney, judge, or law enforcement officer.

(2) One prosecuting attorney.

(3) One public member who is currently active in criminology research or academia in California.

(d) The Senate Committee on Rules shall appoint three members as follows:

(1) One public member who is not and has not ever been an attorney, judge, or law enforcement officer.

(2) One public defender.

(3) One faculty member of a law school within this state.

(e) The Chief Justice of the California Supreme Court shall serve as the permanent chairperson of the commission. All other members of the commission, except ex officio members, shall serve terms of four years and until their successors are appointed

1 and confirmed. However, of the initial members, those designated
2 in paragraphs (1) and (2) of subdivision (b), paragraph (1) of
3 subdivision (c), and paragraph (1) of subdivision (d) shall be
4 appointed for terms of four years; those designated in paragraphs
5 (3) and (4) of subdivision (b), paragraph (2) of subdivision (c),
6 and paragraph (2) of subdivision (d) shall be appointed for terms
7 of three years; and those designated in paragraph (5) of subdivision
8 (b), paragraph (3) of subdivision (c), and paragraph (3) of
9 subdivision (d) shall be appointed for terms of two years.

10 (f) The members of the commission shall be reimbursed for
11 travel and other expenses actually and necessarily incurred by
12 them in the performance of their duties under this article.

13 (g) There shall also be a Judicial Advisory Committee,
14 composed of four superior court judges and two appellate court
15 judges to be appointed by the Judicial Council. The advisory
16 committee shall assist the commission in the ways that the
17 commission determines.

18 1171.1. The commission shall appoint an executive director
19 and a chief of research both of whom shall be exempt from civil
20 service classification. The commission shall employ a full-time
21 staff, who shall be civil service employees. The staff shall be of
22 sufficient size and with sufficient resources to accomplish the
23 duties of the commission.

24 1171.2. (a) The commission shall devise sentencing guidelines.

25 (b) The commission shall review the history of determinate and
26 indeterminate sentencing in this state, including constitutional
27 questions that have been considered by the courts, and shall
28 consider the use of indeterminate sentencing and alternatives to
29 prison for nonserious, nonviolent offenders.

30 (c) The commission shall use existing minimum terms as a
31 guideline for setting new minimums.

32 (d) The commission shall devise a system of granting and
33 rescinding sentence credits based upon individual inmate treatment
34 plans.

35 (e) The commission shall regularly conduct studies and monitor
36 the prison system's present and future capacity, and make these
37 reports available to the Legislature, the Governor, and the public.
38 The commission shall take prison system capacity into account as
39 one of the factors in devising its sentencing guidelines, and shall
40 accompany any reports or recommendations to the Legislature on

1 sentencing guidelines with figures on the impact they will have
2 on prison population and prison capacity.

3 (f) The commission shall analyze legislation that would modify
4 sentencing and provide data and recommendations to the
5 Legislature.

6 1171.3. (a) By January 1, 2009, the commission shall submit
7 to the Legislature a report containing the sentencing guidelines
8 developed pursuant to subdivision (a) of Section 1171.2. In
9 preparing the report, the commission may hold public hearings
10 and shall consider the comments of legislators and members of
11 the public.

12 (b) Every two years beginning January 1, 2011, the commission
13 shall issue a report to the Legislature containing revisions or
14 modifications to the sentencing guidelines, if any. If
15 implementation of the guidelines would result in exceeding the
16 capacity of the correctional facilities, then the commission shall
17 accompany its reports with additional revisions and modifications
18 that are consistent with the capacity of the correctional facilities.

19 (c) The sentencing guidelines contained in the initial report
20 prepared pursuant to subdivision (a) shall become effective on
21 May 1, 2009, unless the Legislature provides otherwise. The
22 revisions or modifications to the sentencing guidelines contained
23 in subsequent reports prepared pursuant to subdivision (b) shall
24 become effective on May 1 of the year the report is issued unless
25 the Legislature provides otherwise.

26 1171.4. The sentencing guidelines of the commission shall not
27 apply retrospectively.

28 1171.5. Nothing in Sections 1171.3 and 1171.4 shall affect
29 sentences established by an initiative adopted by the voters at a
30 statewide election.